

What Is Elder or Dependent Adult Abuse?

Abuse of an elder adult is abuse of Someone 65 years old or older or physical disabilities that keep him or her from being able to do normal activities or protect himself or herself.

The law says elder or dependent adult abuse is Physical abuse or behavior that causes physical harm, pain, or mental suffering

Elder or Dependent Adult Abuse Restraining Orders

You can ask for an elder or dependent adult abuse restraining order if:

You are 65 or older OR have certain physical disabilities that keep you from being able to do normal activities or protect yourself AND You are a victim of Physical abuse Treatment that has physically hurt you

It is possible that you may qualify for an elder or dependent adult abuse restraining order AND a domestic violence restraining order (like if the person abusing you is a spouse or partner, or a child or grandchild).

If you do not qualify for an elder or dependent adult abuse restraining order, there are other kinds of orders you can ask for:

Domestic violence restraining order (for protection from people you were involved with romantically at some point or close family members). Find more information on getting a domestic violence order.

What a restraining order CAN do

A restraining order is a court order. It can order the restrained person to:

Not contact or go near you, your children, other relatives, or others who live with you;

Stay away from your home, work, or other places you go to a lot;

Move out of your house (even if you live together); and Not have a gun.

Once the court issues (makes) a restraining order, it goes into a statewide computer system. This means that law enforcement officers across California

can see there is a restraining order in place.

Effect of a restraining order on the restrained person

For the person to be restrained, the consequences of having a court order against him or her can be very severe:

He or she will not be able to go to certain places or to do certain things.

He or she might have to move out of his or her home.

He or she will generally not be able to own a gun. (He or she will have to turn in, sell or store any firearms he or she has and not buy a gun while the restraining order is in effect.)

The restraining order may affect his or her immigration status. If you are worried about this, talk to an immigration lawyer to find out if you will be affected.

If the person to be restrained violates the restraining order, he or she may go to jail, or pay a fine, or both.

Types of Restraining Orders

Emergency Protective Order (EPO)

An EPO is a type of restraining order that only law enforcement can ask for by calling a judge. Judges are available to issue EPOs 24 hours a day. So a police officer that answers a call because of serious violence or a serious threat can ask a judge for an emergency protective order at any time of the day or night. In elder and dependent adult abuse cases, you can ask for an EPO, but not if the sole abuse you are suffering is financial abuse.

The emergency protective order starts right away and can last up to 7 days. The judge can order the abusive person to leave the home and stay away from the victim for up to a week. That gives the victim of the abuse enough time to go to court to file for a temporary restraining order.

To get a more permanent order, you must ask the court for a temporary restraining order (also called a “TRO”).

Temporary Restraining Order (TRO)

When you go to court to ask for a domestic violence restraining order, you fill out paperwork where you tell the judge everything that has happened and why you need a restraining order. If the judge believes you need protection, he or she will give you a temporary restraining order.

Temporary restraining orders usually last about 20 to 25 days, until your court hearing date.

“Permanent” Restraining Order (Restraining Order After Hearing)

When you go to court for the hearing that was scheduled for your TRO, the judge may issue a “permanent” restraining order. They are not really “permanent” because they usually last up to 5 years.

At the end of those 5 years (or whenever your order runs out), you can ask for a new restraining order so you remain protected.

Criminal Protective Order or “Stay Away” Order

Sometimes, when there is an incident of violence or other elder or dependent adult abuse (or series of incidents), the district attorney will file criminal charges against the abuser.

This starts a criminal court case going. It is common for the criminal court to issue a criminal protective order against the defendant (the person who is committing the violence and abuse) while the criminal case is going on, and, if the defendant is found guilty or pleads guilty, for 3 years after the case is over.

The Restraining Order Process

When people ask for an elder or dependent adult abuse restraining order in court, they have to file court forms telling the judge what orders they want and why. What happens after that varies a little from court to court, but the general steps in the court case are:

1. The person wanting protection (or a court-approved guardian or conservator of the protected person) files court forms asking for the restraining order. There is NO fee to file.

2. The judge will decide whether or not to make the order by the next business day. Sometimes the judge decides sooner.

3. If the judge grants (gives) the orders requested, he or she will first make “temporary” orders that only last until the court date. The court date will be on the paperwork. These temporary orders can include issues like:

Ordering the restrained person to stay away from the protected person (and other protected people);

Ordering the restrained person not to have any contact with the protected person (and other protected people); and

Ordering the restrained person to leave the home if he or she lives with the protected person.

4. The person asking for protection will have to “serve” the other person with a copy of all the restraining order papers before the court date. This means that someone 18 or older (NOT involved in the case) must hand-deliver a copy of all the papers to the restrained person.

5. The restrained person has the right to file an answer to the restraining order request, explaining his or her side of the story.

6. Both sides go to the court hearing.

If the protected person does not go to the hearing, the temporary restraining order will usually end that day and there will NOT be a restraining order.

If the restrained person does not go to the hearing, he or she will have no input in the case and his or her side of the story will not be taken into account.

7. At the hearing, the judge will decide to continue or cancel the temporary restraining order. If the judge decides to extend the temporary order, the “permanent” order may last for up to 5 years.

Read Asking for a Restraining Order for detailed instructions on how to ask for an elder or dependent adult abuse restraining order.

Read [Responding to a Restraining Order](#) for detailed instructions on how to answer a request for an elder or dependent adult abuse restraining order.

Getting Help

You do not need a lawyer to ask for (or respond to) a restraining order. BUT it is a good idea to have a lawyer, especially if you need special assistance of any kind.

The court process can be confusing and intimidating. Both people will have to see each other in court, and both will have to tell the judge details of what happened in a public courtroom. Having a lawyer can help make the process easier to handle.

Click on a topic below for more resources where you can get help:

[For the person asking for protection](#)

[For the person responding to a restraining order](#)

[Other resources](#)

[For the person asking for protection](#)

Most cities or counties have legal aid agencies that help people ask for an elder or dependent adult abuse restraining order. These services are usually free or very low cost. Look for help in your area before you try to do it on your own.

[For the person responding to a restraining order](#)

It is more difficult to find free or low-cost legal help if you are responding to a request for an elder or dependent adult abuse restraining order. But you should still try since legal aid agencies have different guidelines, and your local bar association may have a volunteer lawyer program that can help you. Click [for help finding a lawyer](#). Your court's family law facilitator or self-help center may also be able to help you.